Contracts.—A champertous agreement is unlawful and void; the common law as to champerty being in force.

[Ed. Note.—For other cases, see Champerty and Maintenance, Cent. Dig. §§ 4, 9, 11-19; Dec. Dig. § 4.* 2 Va.-W. Va. Enc. Dig. 774.]

3. Champerty and Maintenance (§ 5*)—Recovery for Services Rendered under Illegal Contract.—An attorney, rendering services pursuant to a champertous contract, whereby he undertook to carry on a litigation at his own risk and without costs to his client, for a part of the recovery, may not recover on quantum meruit the value of the services rendered; though they are in themselves legal.

[Ed. Note.—For other cases, see Champerty and Maintenance, Cent. Dig. §§ 24-51; Dec. Dig. § 5.* 2 Va.-W. Va. Enc. Dig. 774; 14 id. 207.]

Appeal from Circuit Court, Rockingham County.

Suit by John E. Roller against Mary H. Murray and others. There was a decree for defendants, and plaintiff appeals. Affirmed.

John E. Roller, for the appellant.

Conrad & Conrad and *Holmes Conrad,* for the appellee.

NORTH BRITISH, ETC., CO. *v.* ROBINETT & GREEN.

Nov. 16, 1911.

[72 S. E. 668.]

1. Insurance (§§ 567, 612*)—Adjustment of Loss—Stipulations—Validity—Condition Precedent to Action.—A stipulation in a fire policy for appraisal of a loss when required, as a condition precedent to an action on the policy, is valid, and when required is a condition precedent to an action for a loss.

[Ed. Note.—For other cases, see Insurance, Cent. Dig. §§ 1420, 1421, 1520-1528; Dec. Dig. §§ 567, 612.* 6 Va.-W. Va. Enc. Dig. 106; id. 109.]

2. Insurance (§ 146*)—Contracts—Construction.—Though contracts of insurance are liberally construed in favor of insured, he must comply with the plain provisions of the policy.

[Ed. Note.—For other cases, see Insurance, Cent. Dig. §§ 292, 294-298; Dec. Dig. § 146.* 7 Va.-W. Va. Enc. Dig. 784.]

3. Insurance (§ 567*)—Adjustment of Loss—Stipulations—Construction.—A fire policy, stipulating that insured shall have 60 days from the date of a fire to deliver proof of loss, and that the loss shall not become payable until 60 days after delivery of proof of loss, including an award by appraisers, where an appraisal is re-

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*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.

quired, gives to insurer the right, at any time within 60 days after the delivery of proof of loss, to demand an appraisal.

[Ed. Note.—For other cases, see Insurance, Cent. Dig. §§ 1420, 1421; Dec. Dig. § 567.* 6 Va.-W. Va. Enc. Dig. 106.]

4. Insurance (§ 576*)—Adjustment of Loss—Stipulations—Waiver.—A fire policy stipulated for an award by appraisers when required. Insured gave prompt notice of a loss, and furnished proof of loss. An agent of insurer notified an attorney of insured that the amount of the loss claimed was excessive, and demanded an appraisal. During the investigation, the agent made no response to a question put to him as to whether an appraisal was desired. Held, that insurer did not waive its right to an appraisal; a waiver, to be effective, must have occurred with full knowledge of all material facts, and must be distinctly made.

[Ed. Note.—For other cases, see Insurance, Cent. Dig. §§ 1436-1438; Dec. Dig. § 576.* 6 Va.-W. Va. Enc. Dig. 87; id. 106; 13 id 637.]

5. Insurance (§ 576*)—Adjustment of Loss—Stipulations—"Estoppel by Conduct."—The insurer was not estopped from insisting on an appraisal; for, to create an "estoppel by conduct," the party sought to be estopped must have caused the other party to occupy a more disadvantageous position than that which he would have occupied, except for such conduct.

[Ed. Note.—For other cases, see Insurance, Cent. Dig. §§ 1436-1438; Dec. Dig. § 576.* 5 Va.-W. Va. Enc. Dig. 238-9; 14 id. 406.

For other definitions, see Words and Phrases, vol. 8, p. 7654.]

Error to Circuit Court, Wise County.

Action by Robinett & Green against the North British & Mercantile Insurance Company. There was a judgment for plaintiffs, and defendant brings error. Reversed and rendered.

Geo. W. St. Clair and *Bond & Bruce,* for the plaintiff in error.
Morton & Parker and *W. S. Cox,* for the defendants in error.

WILKINSON v. DORSEY.

Nov. 16, 1911.

[72 S. E. 676.]

1. Equity (§ 348*)—Jurisdiction—Mistake—Evidence.—Equity will not relieve against an alleged mistake on proof of a possibility or even a probability of mistake; but the existence thereof must be established by the clearest and most satisfactory evidence.

[Ed. Note.—For other cases, see Equity, Cent Dig. § 20; Dec. Dig. § 348.* 9 Va.-W. Va. Enc. Dig. 869.]

2. Reformation of Instruments (§ 20*)—Grounds.—Equity will re-

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*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.